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9  
10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 CLAY BURGON,  
13 Petitioner,  
14 v.  
15 D.W. NEVEN, et al.,  
16 Respondents.

Case No. 2:14-cv-01128-RFB-CWH  
**UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO FILE  
AMENDED PETITION FOR WRIT OF  
HABEAS CORPUS**  
**(Second Request)**

17  
18 Petitioner Clay Burgon moves this Court for an extension of time of 120 days  
19 from Wednesday, September 28, 2016, to and including Friday, January 27, 2017, to  
20 file an Amended Petition for Writ of Habeas Corpus. This motion is based on the  
21 attached declaration of counsel and the files and records in this case.

22 Dated this 28<sup>th</sup> day of July, 2016.

23 Respectfully submitted,  
24 RENE L. VALLADARES  
Federal Public Defender

25 /s/ Jonathan M. Kirshbaum for.  
26 ARMILLA STALEY-NGOMO  
Assistant Federal Public Defender

**DECLARATION OF ARMILLA STALEY-NGOMO**

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2           1.       On August 6, 2010, Mr. Burgon was charged in Clark County, Nevada  
3 with Robbery with Use of a Deadly Weapon, Possession of Firearm by Ex-Felon,  
4 Burglary While in Possession of a Firearm, and Stop Required on Signal of Police  
5 Officer. The court sentenced Mr. Burgon to two terms of 10 years to life on May 12,  
6 2011. The Nevada Department of Corrections currently houses Mr. Burgon at High  
7 Desert State Prison.

8           2.       On March 31, 2016, this Court appointed the Federal Public Defender  
9 as counsel for Mr. Burgon. ECF No. 24. On April 15, 2016, Assistant Federal Public  
10 Defender Melanie Gavisk filed a Notice of Representation in this case. ECF No. 25.  
11 On May 31, 2016, Ms. Gavisk filed defense counsel's first request for an extension of  
12 time to file an amended petition. ECF No. 27. This Court granted Ms. Gavisk's  
13 request for an extension on the same date. ECF No. 28. Mr. Burgon's amended  
14 petition is currently due on September 28, 2016.

15           3.       Mr. Burgon's case was assigned to me (Assistant Federal Public  
16 Defender Armilla Staley-Ngomo) on June 13, 2016, due to Ms. Gavisk's impending  
17 departure from this office. On July 18, I filed a Notice of Change of Attorney. ECF  
18 No. 29.

19           4.       This is defense counsel's second request for an extension. I am filing  
20 this request for an extension far in advance of the September 28, 2016 filing  
21 deadline because I gave birth to a baby on July 26, 2016, and now will be on  
22 maternity leave until November 2016, and require additional time to effectively and  
23 thoroughly represent Mr. Burgon. This motion is not filed for the purposes of delay,  
24 but in the interests of justice, as well as in the interests of Mr. Burgon. Nev. R.  
25 Prof. Conduct 1.1.  
26

1           5.       In addition, this is a complex habeas corpus case, which will require  
 2 me and staff at my office to gather and review voluminous files and court records  
 3 related to Mr. Burgon's trial court, appellate court (direct appeal), and state and  
 4 federal post-conviction proceedings. This office is still in the process of gathering,  
 5 reviewing, and coding the files and court records in this case. It will therefore take  
 6 a significant period of time for me to completely review the files and court records in  
 7 this case, as well as draft an amended petition, upon my return from maternity  
 8 leave in November of 2016.

9           6.       On July 28, 2016, Assistant Federal Defender Jonathan M. Kirshbaum  
 10 corresponded with Deputy Attorney General Matthew Johnson via email. He did  
 11 not object to the extension of time. However, the lack of objection should not be  
 12 construed as a waiver of any procedural defenses.

13           7.       For the reasons stated above, as well as the files and records in this  
 14 case, I ask this Court to grant my request for an extension of time to file an  
 15 amended petition, and order the amended petition to be filed on or before Friday,  
 16 January 27, 2017.

17  
 18           I declare under the penalty of perjury that the foregoing is true and correct.

19  
 20           Dated this 28<sup>th</sup> day of July, 2016.

21  
 22           IT IS SO ORDERED:

23  


24           \_\_\_\_\_  
 25           RICHARD F. BOULWARE, II  
 26           United States District Judge  
              DATED this 30th day of August, 2016.

Respectfully submitted,  
 RENE L. VALLADARES  
 Federal Public Defender

/s/ Jonathan M. Kirshbaum for.  
 ARMILLA STALEY-NGOMO  
 Assistant Federal Public Defender

**CERTIFICATE OF SERVICE**

In accordance with the Rules of Civil Procedure, the undersigned hereby certifies that on this 28<sup>th</sup> day of July, 2016, a true and correct copy of the foregoing was filed electronically with the United States District Court. Electronic service of the foregoing document shall be made in accordance with the master service list as follows:

Matthew S. Johnson  
Deputy Attorney General  
Nevada Bar No. 12412  
California Bar No. 290630  
100 North Carson Street  
Carson City, Nevada 89701-4717

/s/ Leianna Jeske  
An Employee of the  
Federal Public Defender,  
District of Nevada